

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 17A and section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 7, "Practice and Procedure Before the Department of Revenue," Iowa Administrative Code.

This proposed amendment adds a new rule to Chapter 7 related to a petition for rule making. At present, the Department does not have its own rule regarding a petition for rule making. The Department has received one request related to a petition for rule making in the past and has received some general questions regarding rule making. Thus, the Department decided to add a rule related to the petition for rule-making procedures as allowed in Iowa Code chapter 17A. The general state model rule is the basis for the Department's proposed rule.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities that contract with political subdivisions. Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than June 22, 2009, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before June 9, 2009. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by June 10, 2009.

This amendment is intended to implement Iowa Code chapter 17A.

The following amendment is proposed.

Adopt the following new rule 701—7.61(17A):

701—7.61(17A) Petition for rule making.

7.61(1) Form of petition. Any person or agency may file a petition for rule making at the Office of the Director, Department of Revenue, Hoover State Office Building, Fourth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319. A petition is deemed filed when it is received by the director. The department will provide the petitioner with a file-stamped copy of the petition if the petitioner provides the department an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

DEPARTMENT OF REVENUE

Petition by (Name of Petitioner) for the
(adoption, amendment, or repeal) of rules
relating to (state subject matter).



PETITION FOR
RULE MAKING

The petition must provide the following information:

- a.* A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
- b.* A citation to any law deemed relevant to the department's authority to take the action urged or to the desirability of that action.
- c.* A brief summary of petitioner's arguments in support of the action urged in the petition.
- d.* A brief summary of any data supporting the action urged in the petition.
- e.* The names and addresses of other persons, or a description of any class of persons, known by the petitioner to be affected by or interested in the proposed action which is the subject of the petition.
- f.* Any request by petitioner for a meeting.
- g.* Any other matters deemed relevant that are not covered by the above requirements.

7.61(2) *Form signed and dated.* The petition must be signed and dated by the petitioner or the petitioner's representative. It must also include the name, mailing address, telephone number and, if requested, the E-mail address of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

7.61(3) *Denial by department.* The department may deny a petition because it does not substantially conform to the required form or because all the required information has not been provided.

7.61(4) *Briefs.* The petitioner may attach a brief to the petition in support of the action urged in the petition. The department may request a brief from the petitioner or from any other person concerning the substance of the petition.

7.61(5) *Status of petition.* Inquiries concerning the status of a petition for rule making may be made to the Office of the Director, Department of Revenue, Hoover State Office Building, Fourth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319.

7.61(6) *Informal meeting.* If requested by petitioner in the petition, the department may schedule an informal meeting between the petitioner and the department, or a member of the staff of the department, to discuss the petition. The department may request that the petitioner submit additional information or argument concerning the petition. The department may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the department by any person.

7.61(7) *Action required.* Within 60 days after the filing of the petition, or within an extended period as agreed to by the petitioner, the department must, in writing, either: (a) deny the petition and notify petitioner of its action and the specific grounds for the denial; or (b) grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial of the petition or granting of the petition on the date that the department mails or delivers the required notification to petitioner.

7.61(8) *New petition.* Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject when the new petition contains the required information that was the basis for the original denial.

This rule is intended to implement Iowa Code chapter 17A.